



United States Department of Justice

**United States Attorney
Southern District of West Virginia**

Robert C. Byrd United States Courthouse
300 Virginia Street, East
Suite 4000
Charleston, WV 25301
1-800-659-8726

Mailing Address
Post Office Box 1713
Charleston, WV 25326
304-345-2200
FAX: 304-347-5104

February 13, 2018

Supreme Court of Appeals of West Virginia
Attn: Authorized Records Custodian
1900 Kanawha Blvd., E., #E317
Charleston, WV 25305

Re: Grand Jury Subpoena - February 27, 2018

Dear Authorized Records Custodian:

Enclosed herewith please find a Federal Grand Jury Subpoena directed to Supreme Court of Appeals of West Virginia. Also enclosed is a Waiver and Certification which, if properly executed and returned with the records subpoenaed by the Grand Jury, will release you from your Grand Jury appearance on February 27, 2018.

Please execute the acknowledgment section of this letter reflecting that you have received and accepted service of this subpoena and return it to me.

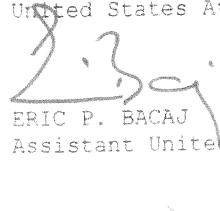
The Waiver and Certification, and a copy of the Subpoena, is to be returned with the records and documents by certified mail addressed to:

Eric P. Bacaj
Assistant United States Attorney
United States Courthouse
300 Virginia Street, East, Room 4000
Charleston, West Virginia 25301

Thank you for your cooperation in this matter. If you have any questions, please contact me at 800-659-8726.

Sincerely,

MICHAEL B. STUART
United States Attorney

By: 
ERIC P. BACAJ
Assistant United States Attorney

EPB/fgb
Enclosures

I acknowledge receipt and accept service of the above-referenced subpoena.

Name _____

Date _____

AO385-C

GOVERNMENT EXHIBIT	
CASE NO. 2:18-cr-00134	
EXHIBIT NO. 1	

UNITED STATES DISTRICT COURT
for the
Southern District of West Virginia

SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: Supreme Court of Appeals of West Virginia
Attn: Authorized Records Custodian

YOU ARE COMMANDED to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place:
United States District Court
300 Virginia Street, East, Room 2400
Charleston, WV 25301

Date and Time:
02/27/2018 9:30 am

You must also bring with you the following documents, electronically stored information, or objects (blank if not applicable):
See Attached.

Date: February 7, 2018

CLERK OF COURT


Signature of Clerk or Deputy Clerk



The name, address, e-mail, and telephone number of the United States attorney, or assistant United States attorney, who requests this subpoena, are:

Eric Bacaj
300 Virginia Street, East Room 4000
Charleston, WV 25301
304-345-2200
Eric.Bacaj@usdoj.gov

PROOF OF SERVICE

This subpoena for *(name of individual or organization)* WV Supreme Court of Appeals
was received by me on *(date)* _____.

I served the subpoena by delivering a copy to the named person as follows:

on *(date)* _____ ; or

I returned the subpoena unexecuted because:

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ATTACHMENT TO GRAND JURY SUBPOENA

RETURNABLE: February 27, 2018

TO: Supreme Court of Appeals of West Virginia

ATTN: Christopher Morris

AUTHORIZED RECORD CUSTODIAN

PRELIMINARY MATTERS

- A. If you will need additional time to respond to the subpoena, please contact AUSA Eric Bacaj at (304) 345-2200 before proceeding. If you have questions about specific items requested or about the request generally, please contact FBI Special Agent Jim Lafferty at (304) 346-2300.
- B. **Records:** The term "records" encompasses all recorded information in whatever form it exists, including, without limitation, paper documents, electronically stored information, photographs, and audio or video recordings. The term "records" specifically includes, without limitation, e-mail messages, text messages (also known as SMS or MMS messages), messages sent or received by electronic instant messaging programs, and all other similar electronic messages. The term "records" also specifically includes, without limitation, all information stored on any computer, cellular telephone, tablet computer, or other electronic device capable of storing information.
- C. Records should be produced in the condition in which they are stored by you, including all notes, attachments, marginalia, posted notes, etc. Records that are attached to responsive records or are incorporated by reference in responsive records should also be produced.
- D. To the extent that records are found in file folders, computer discs, hard disc drives, or other storage media that have labels or other identifying information, the documents should be produced with such file folder and label information intact. Audio files should be separated from data files if both are included in a production.
- E. Please provide records as native files (e.g., Microsoft Excel, Microsoft Access, Microsoft Word, Microsoft Outlook (.msg or .pst), WordPerfect, etc.).

- F. If you are unable to produce native files, please contact AUSA Eric Bacaj at (304) 345-2200.
- G. Data may be produced on CD, DVD, thumb drive, etc. Alternatively, the United States Attorney's Office has a cloud-based, secure file transfer protocol ("ftp") site. If you prefer to upload to the ftp, please contact AUSA Eric Bacaj at (304) 345-2200.
- H. Please provide sufficient information and instructions, including passwords, so that the government can access and retrieve the data.
- I. If provided, please return responsive records with a completed waiver of grand jury appearance.

TIME PERIOD OF RECORD REQUEST

Unless otherwise specified, please provide records for the period of January 1, 2009, through February 13, 2018.

SCOPE OF RECORDS REQUEST

1. Individual time and attendance records for the following individuals:

Justice Robin Davis	Vici Shafer
Justice Margaret Workman	Christopher Garnes
Justice Menis Ketchum	Arthur Angus
Justice Allen Loughry	Jess Gundy
Justice Brent Benjamin	Harold Dailey
Justice Elizabeth Walker	Bruce Kayuha
Steven Canterbury	Jane Charnock
Gary Johnson	Jeanne Stevenson
Jennifer Stover	Whitney Humphrey;
Ruth Melvin	
2. Individual desk calendars (or any other calendar maintained in a non-electronic, or "hard-copy," format) for the individuals identified in Request 1;
3. Court calendars, including documentation of the activity of the court on that date, including, but not limited to:
 - Dates when court was in session
 - Dates when the Justices met at the Court or participated in group functions

- Public events held either at the Court or in other public venues;

4. Vehicle records, including, but not limited to:

- Vehicles owned or used by the Court, including make, model, model year, vehicle identification number (VIN), and West Virginia license plate number;
- Logs identifying the person who used any particular vehicle on any specific date or range of dates, including the identity of the vehicle, the destination, and the purpose of the vehicle use;
- Logs identifying all fuel cards and the specific vehicles to which the fuel cards are assigned, including the specific date range that the card was assigned to the vehicle;
- Logs identifying all employees of the Court (including Justices) to whom vehicles were assigned, including the identity of the vehicle and the corresponding fuel card;
- Logs identifying all EZPass transponders and the specific vehicles to which the transponders are assigned, including the specific date range that the transponder was assigned to the vehicle and all associated records including payment, correspondence, and registration;
- All policies or policy decisions made by the Court related to the Court's vehicle fleet, including those decisions regarding maintenance, assignment, and permissible use;

5. For the period from **January 1, 2010**, through **September 30, 2014**, provide legible copies of all documents, in whatever form they may exist, that memorialize the purchase of food and beverages, for the Justices of the Supreme Court and members of the Court staff. Such documents may include cash register receipts, invoices, monthly purchase card logs, hospitality documentation/forms, and any other record that shows the official purpose of the food and beverages and/or lists the individuals who attended;

6. For the period from **September 30, 2014**, through **December 30, 2017**, provide legible copies of any record that shows the official purpose of the food and beverages purchased and consumed;
7. All policies and policy decisions made by the Court related to the Court's purchase of food and beverages, including those decisions regarding hospitality forms, gratuities and tipping, catering, and regular or standing orders for food and beverages.

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA

IN RE: GRAND JURY PROCEEDINGS

WAIVER AND CERTIFICATION

I hereby state that I am the _____ of Supreme Court of Appeals of WV and as such I am the custodian of the records described in a subpoena duces tecum returnable to a Federal Grand Jury for the Southern District of West Virginia at Charleston, West Virginia, on February 27, 2018. I understand that I have an absolute right to appear personally, at the expense of the United States, before the Grand Jury in response to that subpoena, to testify under oath, and to produce the records called for by that subpoena. Nonetheless, I choose to waive that right.

Attached are the records called for by that subpoena and a list describing the type and quantity of records being produced. I have searched and caused to be searched the appropriate records, and to the best of my knowledge and belief the records hereby produced fully comply with the requirements of that subpoena. The records hereby produced were (1) made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge; (2) kept in the course of a regularly conducted activity; and (3) made by the regularly conducted activity as a regular practice.

I declare under penalty of perjury that the foregoing is true and correct. Executed on

Date

Signature

These documents were received by: _____
(Signature of person receiving documents)

Title

Date

These documents were presented to the Grand Jury on _____
Date

(Signature of Grand Jury Foreman)

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA**

ADVICE TO GRAND JURY WITNESSES

This advice is given to all Grand Jury witnesses as a general practice without regard to culpability.

1. A Grand Jury consists of sixteen to twenty-three citizens who inquire into possible violations of federal law that may have occurred in this judicial district. Only the members of the Grand Jury, attorneys for the government, the witness under examination and a court reporter (and possibly a translator, if necessary) may be present in the Grand Jury Room while evidence is being presented.

2. You will be expected to answer all questions asked of you, except that you do not have to answer any question to which a truthful answer would tend to incriminate you, or if some other recognized legal privilege would apply.

3. An untruthful answer to any question may subject you to a prosecution for perjury. Anything that you say in the Grand Jury may be used against you by the Grand Jury or in Court.

4. You may consult an attorney about your Grand Jury appearance before testifying. Your attorney may wait immediately outside the Grand Jury Room while you are testifying. Upon your request, you will be afforded a reasonable opportunity to step outside the Grand Jury Room to consult with your attorney before answering any question.

5. The mere fact that a person who has been subpoenaed to testify before a Grand Jury has been advised of his or her rights should not necessarily be taken to mean that the person is likely to be charged (indicted) with a crime.

GENERAL INFORMATION REGARDING YOUR APPEARANCE BEFORE THE GRAND JURY

1. Upon receipt of your subpoena, please contact the Assistant United States Attorney (AUSA) indicated on the subpoena to obtain the precise time that you are scheduled to testify. If you fail to do so, you will be required to appear at the time indicated on your subpoena and wait until you are called. Also, please provide the AUSA with your work and home phone numbers so that you may be contacted in the event of changes in the date or time of your appearance.

2. You are not required to discuss your anticipated testimony with the AUSA before your appearance but may do so if you wish.

3. **Please read the attached form regarding witness fees and expenses.** The United States Attorney's Office will assist you in making travel arrangements, including method of travel and hotel accommodations if necessary. If you are excused from the Grand Jury with sufficient time left in the day to return to your place of residence that day, you are expected to do so and overnight accommodations will not be authorized in that case.

4. **YOU MUST BRING PHOTO IDENTIFICATION AND YOUR SUBPOENA WITH YOU TO THE COURTHOUSE. NO CELL PHONES ARE PERMITTED IN THE GRAND JURY ROOM!!**

If you have any questions concerning your appearance, or other questions, you should consult your attorney, or you may contact the United States Attorney's Office at 304-345-2200.

U.S. DEPARTMENT OF JUSTICE



2017R00507 - 006

**INSTRUCTIONS FOR FACT WITNESSES APPEARING ON
BEHALF OF THE UNITED STATES GOVERNMENT**
(Not Applicable to Federal Employees)

READ THE INFORMATION CONTAINED ON THIS FORM BEFORE YOUR COURT APPEARANCE. PLEASE CALL THE INDIVIDUAL(S) LISTED BELOW FOR INFORMATION REGARDING TRAVEL ARRANGEMENTS AND SPECIFIC ENTITLEMENTS. IF YOU HAVE A MEDICAL CONDITION OR FAMILY SITUATION THAT REQUIRES SPECIAL CONSIDERATION, PLEASE ADVISE THE INDIVIDUAL LISTED BELOW AS SOON AS POSSIBLE.

CONTACT PERSON(S): **Erin Quintrell**TELEPHONE NUMBERS: (304) 345-2200
1-800-659-8726**VERIFY YOUR ATTENDANCE**

On the last business day (Monday- Friday) BEFORE you travel to court, call the above number to verify that your attendance is required. This may prevent a wasted trip in the event the trial date is changed.

APPEARANCE IN ANOTHER CITY

If you are required to travel to another city to appear in court, immediately contact the individual listed above and request instructions. Any amount advanced to you will be deducted from your fees and allowances.

REIMBURSEMENT OF EXPENSES AND ATTENDANCE FEES

A. ATTENDANCE FEE: You will be paid a fee of \$40 per day, including travel days.

B. TRANSPORTATION: Call the individual listed above to obtain information on transportation. Reimbursement will be made for travel by the least expensive method reasonably available to you. The following rules apply to transportation expenses:

1. Local Travel: The recommended method of travel in the local area of court is transit bus/subway.
2. Privately Owned Vehicles You will be reimbursed the following amounts:
(POV): Motorcycle: \$.515 per mile Automobile \$.545 per mile Airplane \$1.21 per mile

In addition to the above mileage allowance, necessary tolls, parking and other fees may be reimbursed. You must keep a record of your odometer readings if you travel by motorcycle or automobile. If two or more witnesses travel in the same vehicle, only one reimbursement for mileage can be made.

IF POV EXPENSES, INCLUDING MILEAGE, TOLLS, PARKING AND OTHER ASSOCIATED COSTS, ARE GREATER THAN THE GOVERNMENT AIRFARE, YOU WILL BE RESPONSIBLE FOR THE DIFFERENCE.

3. Common Carrier: If you are located outside the local court area, CALL THE INDIVIDUAL LISTED ABOVE FOR INSTRUCTIONS. Train, bus or airfare will be reimbursed at the Government rate. Reimbursement WILL NOT be made for First Class accommodations, "Frequent Flyer" tickets, or charter service. DO NOT purchase non-refundable tickets. If your appearance date changes or is canceled, you WILL NOT be reimbursed for non-refundable tickets. If you have any questions concerning transportation arrangements, please contact the individual(s) listed above.

C. MEALS: If it is necessary for you to remain away from home overnight, you will receive the following daily meal allowances:
\$ * For each travel day PLUS \$ * For each day at court

D. LODGING: If it is necessary for you to remain away from home overnight, you will be reimbursed for the ACTUAL COST of your hotel/motel room which may not exceed \$ * per night, including tax.

*See below for allowances.

YOU MUST RETAIN RECEIPTS

ALL CLAIMS FOR PARKING MUST BE SUPPORTED BY A RECEIPT. OTHER EXPENSES EQUAL TO \$75 OR MORE MUST BE SUPPORTED BY A RECEIPT, WITH THE EXCEPTION OF MEALS AND MILEAGE.

DISMISSAL

When you are advised that your attendance is no longer required, you should request information regarding the payment of the fees and allowances outlined above. The individual requiring your attendance will provide you with a Fact Witness Voucher. You will be required to list your expenses on this Voucher. The Voucher will be submitted to the U.S. Marshals Service for payment. The U.S. Marshal Service will process the voucher and MAIL the payment to you. If you require funds to return home, you MUST notify the Contact Person indicated above IN ADVANCE OF YOUR TRAVEL.

Beckley:	\$51.00 Meal Allowance and \$93.00 Lodging Allowance Each Day- \$144.00 Total
Bluefield:	\$51.00 Meal Allowance and \$93.00 Lodging Allowance Each Day- \$144.00 Total
Charleston:	\$54.00 Meal Allowance and \$110.00 Lodging Allowance Each Day- \$164.00 Total
Parkersburg:	\$51.00 Meal Allowance and \$93.00 Lodging Allowance Each Day- \$144.00 Total
Huntington:	\$51.00 Meal Allowance and \$93.00 Lodging Allowance Each Day- \$144.00 Total

Form DOJ-2